

REMARKS

Applicants request reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks.

Claims 1-16 are pending in the present application. Claims 1, 5, 9, and 13 are the independent claims.

Claims 1, 5, 9, and 13 have been amended. No new matter is believed to have been added.

Claims 1-8 and 13-16 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6, 567,355 (Izumi et al.). Claims 9-12 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,043,911 (Yang) in view of Izumi et al. All rejections are respectfully traversed.

Independent claims 1, 5, and 13 recite, inter alia, that a holographic optical element is between light sources and an optical path changing unit.

Independent claim 9 recites, inter alia, that a holographic optical element is between an optical module and an optical path changing unit.

However, Applicants respectfully submit that none of the asserted citations teaches or suggests at least the aforementioned features of independent claims 1, 5, 9, and 13. Applicants also submit that the combination of citations asserted in the Office Action is improper because it impermissibly alters a principle of operation of a reference.

Regarding the rejection of independent claims 1, 5, and 13, Izumi et al. relates to an optical detector, and optical pickup and optical information reproducing apparatus using the optical pickup and teaches locating a movable dichromatic diffraction grating 30 (Izumi et al., FIGS. 19A and 19B), 7010 (Izumi et al., FIG. 23), and 7012 (Izumi et al., FIG. 41) between a half mirror 4 (Izumi et al., FIGS. 19A and 19B) or 7003 (Izumi et al., FIGS. 23 and 41) and a laser source 2 (Izumi et al., FIGS. 19A and 19B) or 7001 (Izumi et al., FIGS. 23 and 41).

Assuming arguendo that the Office Action's contentions that the diffraction grating is a movable holographic optical element, that the half mirror is an optical path changing unit, and that the laser source is a first light source and a second light source, the diffraction grating of Izumi et al. is not located between light sources and an optical path changing unit as recited in independent claims 1, 5, and 13.

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claims 1, 5, and 13 under 35 U.S.C. § 102 are respectfully requested.

Regarding the rejection of independent claim 9, Yang relates to an optical source module with two wavelengths and an optical pick up apparatus using the same and teaches locating a hologram optical element (HOE) 38 at an upper surface of a cap 36 surrounding first and second laser diodes of a light module. (Yang, Col. 4, lines 25-30; FIG. 4). Further, the Yang HOE is located in a particular orientation with respect to the light sources. (Yang, Col. 3, lines 44-48). However, as the Office Action acknowledges, the Yang HOE is fixed. Nonetheless, the Office Action contends that Izumi et al. provides the necessary teaching of a moveable HOE and that combining Yang and Izumi et al. is proper. The latter contention is respectfully traversed.

Section 2142.01 the Manual of Patent Examining Procedure (MPEP) warns that:

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious.

Citing In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Such is the case here.

As explained above, Yang teaches using an HOE fixed to a light module to locate the HOE in a particular orientation with the light sources and to be upstream of a beam splitter. In contrast, Izumi et al. teaches using a movable diffraction grating located downstream of a half mirror. Modifying the HOE of Yang in view of Izumi et al. as asserted in the Office Action would impermissibly alter the operation of Yang by altering how Yang uses the HOE. Thus, the asserted combination is improper.

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claim 9 under 35 U.S.C. § 103 are respectfully requested.

In view of the foregoing, Applicants respectfully submit that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

Applicants submit that this Amendment After Final Rejection clearly places the subject application in condition for allowance. This Amendment was not earlier presented because Applicants believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of the instant Amendment as an earnest attempt to advance

prosecution and reduce the number of issues is requested under 37 C.F.R. § 1.116.

Applicants believe that the present Amendment is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to such matters.

There being no further outstanding objections or rejections, it is submitted that the present application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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